

GIG HARBOR CITY COUNCIL MEETING OF SEPTEMBER 8, 2008

PRESENT: Councilmembers Ekberg, Young, Franich, Conan, Malich, Kadzik, Payne and Mayor Hunter.

CALL TO ORDER: 6:02 p.m.

PLEDGE OF ALLEGIANCE:

Paul Nelson, Court Administrator, gave a brief presentation on the new sound system in the Council Chambers.

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of August 11th, 2008.
2. Receive and File: a) 2009 Budget Schedule; b) Bld/Fire Safety Monthly Report; c) Gig Harbor Police Department Monthly Report; d) LTAC Minutes July 10, 2008; e) Parks Commission Minutes June 4, 2008; f) Parks Commission July 2, 2008,
3. Correspondence / Proclamations: Constitution Week.
4. Resolution – Surplus Equipment.
5. Onshore Sewage Outfall Project/Additional Soils Material Testing/Consultant Services Contract Amendment – Krazan & Associates, Inc.
6. 38th Avenue Phase 1 – Local Agency Standard Consultant Agreement – HDR.
7. Public Works Facility Wetland Delineation Report – Consultant Services Contract.
8. Wastewater Treatment Plant Expansion - Turbo Blower Procurement.
9. Wastewater Treatment Plant Expansion – Temporary Lab/Office Purchase Authorization.
10. Wastewater Treatment Plant Expansion – Peninsula Light Co. Underground Electrical Line Extension Agreement.
11. Skate Park Play Structure - Purchase Authorization.
12. Wastewater Treatment Plant Selector Wall Demolition - Construction Services Contract.
13. Public Works Pavement Markings on City Streets Construction Services Contract.
14. Cushman Trail Easement Agreement.
15. Approval of Payroll for the month of August: Checks #5197 through #5241 and direct deposits in the amount of \$573,302.43.
16. Approval of Payment of Bills for Aug. 25, 2008: Checks #58601 through #58738 in the amount of \$523,605.60.
17. Approval of Payment of Bills for Sep. 8, 2008: Checks #58739 through #58832 in the amount of \$206,192.65.

Councilmembers Young and Ekberg asked that items 6, 10, 11, and 14 be taken off the Consent Agenda and discussed under New Business.

MOTION: Move to adopt the Consent Agenda as amended.
Malich / Conan – unanimously approved.

PRESENTATIONS: Proclamation – Constitution Week.

Mayor Hunter introduced Connie Worthen, Past Regent of the Daughters of the American Revolution, who voiced appreciation for the proclamation.

OLD BUSINESS:

1. Third Reading of Ordinance – Temporary Sewage Storage Tanks. Jeff Langhelm, Senior Engineer explained that during the SEPA process the Tacoma Pierce County Health Department recommended amendments to the ordinance. He read the revisions to the ordinance based upon those comments and offered to answer questions.

MOTION: Move to adopt Ordinance No. 1138 to allow temporary sewage holding tanks.
Young / Kadzik – five voted in favor. Councilmembers Ekberg and Malich voted no.

NEW BUSINESS:

1. First Reading of Ordinance – Private Cemeteries Limitation Amendment. Tom Dolan, Planning Director, explained that after meeting with representatives from the Haven of Rest Cemetery, he worked with the City Attorney to develop this ordinance to allow existing cemeteries annexed to be a legal, non-conforming use. The Haven of Rest Cemetery is located within the proposed 96th Street Annexation which is on hold because the Pierce County Boundary Review Board invoked jurisdiction because the current city code would render the cemetery an illegal use if annexed. He further explained that the Planning and Building Committee has asked staff to look at alternatives that would allow the cemetery to expand. This would require a text amendment to the zoning code. If Council adopts this ordinance at its second reading, staff will bring forward a companion ordinance for consideration that would allow the cemetery to expand.

Mr. Dolan addressed Councilmember Franich's questions regarding the expansion of the use. He said that it is difficult to determine what is non-conforming and in addition there are issues of a possible "land-swap" as well.

Kathryn Jerkovich – 2106 Pacific Avenue, Suite 500, Tacoma, WA 98402. Ms. Jerkovich said she was here on behalf of Haven of Rest. She addressed the question regarding the expansion of the cemetery. She said that they currently have approximately 61 acres, but there is a chance they may not develop all of it. A portion of the property that sits on the east side of the Tacoma Power easement that isn't very assessable and they might sell this off. A number of acres on the west side are

undeveloped that they would like to expand due to the need for additional mausoleums and burial space as well as administrative offices. She said that she didn't know how many acres are already being used; perhaps half of what they own. She also said she appreciates the willingness of the city to work with them.

Councilmember Malich said he owns plots at the cemetery and asked if he should recuse himself. Carol Morris said that so far the ordinances are legislative and the Appearance of Fairness Doctrine doesn't apply to legislative actions.

Councilmember Ekberg asked if any research had been done as to why cemeteries were not allowed when the code was adopted back in the 1960's and if Councilmembers had a problem with having one now.

Mr. Dolan responded that he does not know why they were excluded. Councilmember Young said he guessed it's because the town was so small and they didn't want to use city property for a cemetery when there was so much property in the county.

Ms. Morris added when she researched state law for the ordinance it appears that there was a need to regulate cemeteries by a municipality as if they were trying to rectify problems with private ownership.

This will return for a second reading at the next meeting.

6. 38th Avenue Phase 1 – Local Agency Standard Consultant Agreement – HDR. Councilmember Young recommended that discussion on this be delayed until after the Budget Retreat so that Council could get a better understanding of the city's financial situation.

Rob Karlinsey explained that construction is planned for 2010 or 2011 and if design doesn't begin this year, it just delays the project to 2011. He concurred with Councilmember Young's recommendation to delay discussion as this will be a topic at the retreat.

10. Wastewater Treatment Plant Expansion – Peninsula Light Co. Underground Electrical Line Extension Agreement.

Councilmember Ekberg said he received a memo on this and the next two agenda items late today from the city attorney and wanted to ask a few questions. On the agreement with Peninsula Light, do we have an agreement?

Ms. Morris said that it is her understanding that the Public Works Department did everything they could to get Peninsula Light to sign the city's contract but they refused to sign our form. Mr. Stubchaer, Public Works Director, added that perhaps a work order would be a better term.

Councilmember Ekberg then asked if Mr. Rodenbach had confirmation in writing from the Auditor's office regarding pre-payment. Ms. Morris responded that the State Auditor won't put it in writing and it is her recommendation that after any discussion with the Auditor that you document the conversation in a letter back to them. Councilmember Ekberg asked that this be done as good policy.

Councilmember Young said it was his understanding that the pre-payment rule covers PUDs and other forms of Public Utilities which Peninsula Light is not; they are a private Co Op. He asked if the Auditor had been given this information. Ms. Morris said that David Rodenbach did relay this to the Auditor, but she offered to confirm that to make sure.

11. Skate Park Play Structure - Purchase Authorization. Councilmember Ekberg asked if there should be a contract for this purchase rather than just an authorization.

Ms. Morris said she suggests that a contract be used to cover warranty and insured delivery. She said as a matter of procedure, we should be requiring that contracts be signed for more expensive purchases like this.

David Stubchaer responded that contracts require additional insurance and that was not included in the original bid. If we have to obtain a signed contract this would have to be rebid. He said that this was viewed as a simple purchase as they are not assembling anything and staff will do the installation.

Councilmember Ekberg said that in the future that any warranty or delivery insurance language be clarified in the bid documents and if we have a contract we should use it.

Councilmember Malich asked if this had gone to the Parks Commission. Mr. Karlinsey explained that this was included in the Parks Capital Improvement Plan presented to the committee and authorized in the 2008 Budget.

Councilmember Payne asked about the required "resilient surfacing materials" and if rubberized material is being purchased for this equipment. Mr. Karlinsey responded that he hadn't heard of any plans other than wood chips.

MOTION: Move to authorize the Mayor to sign the agreement with Cascade Recreation.

Young / Ekberg – unanimously approved.

12. Cushman Trail Easement Agreement. Councilmember Ekberg asked if this could be moved to the next meeting. David Stubchaer explained that they cannot begin construction without this agreement explaining that Pierce County signed this same agreement for the first portion of the trail, and when you have two entities with indemnification clauses, there are clashes. This is a requirement by TPU and without it, there will be no Phase 2 or 3 Trail.

Councilmember Payne asked for further clarification on the concern with the indemnification language. Ms. Morris said that she is “flummoxed” as to the terms and conditions of this easement agreement. She says that she cannot enforce this agreement and the city might have liability because of TPU’s actions. The permit requires the city to indemnify TPU and doesn’t explain what TPU will do for the city.

Councilmember Young referenced a past agreement with TPU for a small road easement. He said that it was a 3-4 year process and the ultimate judgment was we had to sign as they have authority over the access will assume no liability. Rob Karlinsey added that the city has been in negotiation with them for quite some time on this.

Councilmember Franich said that some of the points raised by the city attorney may be critical in the future and without a clear understanding of the terms, it may not be a smart idea to approve this.

Councilmember Payne asked the City Administrator if he is comfortable approving this agreement. Mr. Karlinsey responded that ideally he would like it to be different, but given that the trail construction is at stake and we have done our best to negotiate this, he recommends approval. David Stubchaer added that this is the same agreement signed by Pierce County in Phase 1, and he has heard of no resulting problems.

MOTION: Move to approve the easement agreement between the City of Gig Harbor and TPU for the Cushman Trail Phase 2 Project.

Young / Ekberg – six voted in favor. Councilmember Franich voted no.

Mr. Karlinsey said that Council didn’t vote on item number 10 from the Consent Agenda regarding the Peninsula Light Co. Underground Electrical Line Extension Agreement.

Councilmember Ekberg said that as long as the letter is written to the State Auditor, he didn’t intend to hold up the agreement. Councilmember Young voiced concern that Peninsula Light was portrayed as a PUD and asked if this could be delayed until the next meeting. Ms. Morris suggested that she would talk to Mr. Rodenbach to find out if he spoke specifically about Peninsula Light and if not, this would come back at the next meeting.

MOTION: Move to authorize the Mayor to approve Peninsula Light’s action as described in the letters from Peninsula Light and all the accompanying documentation based upon confirmation with David Rodenbach that he did discuss, with the State Auditor, that Peninsula Light was an entity subject to the auditor’s rules of the type of entity that can be prepaid. If that’s not the case then this matter will be brought back to the Council at the next meeting. Staff is hereby directed to write the letter to the auditor.

Young / Ekberg – unanimously approved.

Councilmember Malich asked to clarification on whether his vote was recorded as “no” for the Ordinance on Temporary Sewage Storage Tanks. Clerk Molly Towslee said she would make sure that it was noted in the minutes as a “nay” vote.

STAFF REPORT: None.

MAYOR’S REPORT / COUNCIL COMMENTS:

Mayor Hunter reported that he had the pleasure of visiting the Canterwood Boulevard Project, which looks like it’s going well.

Councilmember Ekberg agreed, adding that it is evident that the road did need to be closed in order to get this done.

Councilmember Malich commented that the detour signs are unclear and asked that they be redone. The Mayor and Councilmembers agreed. He then asked about the letter from Forever Green Council asking for money. Rob Karlinsey responded that this could be discussed at the budget workshop.

PUBLIC COMMENT: None.

ANNOUNCEMENT OF OTHER MEETINGS:

1. Finance Committee: Mon. Sept. 15th at 4:00 p.m. Executive Conf. Room.
2. Budget Retreat – Friday, Sept. 12th at 8:30 a.m.
3. Workstudy Session (tentative) Monday, September 15th at 6:00 p.m.
4. Operations Committee: Thurs. Sept. 18th at 3:00 p.m.
5. City Council / Planning Commission Joint Workstudy Session: Mon. Sept. 29th at 6:00 p.m. Community Rooms A&B.
6. Wastewater Treatment Plant Groundbreaking Ceremony – October 1st at 11:00 a.m.
7. Budget Worksession: Court, Admin, Finance, Planning, Building/Fire Safety, Police, Tourism – Monday, November 3rd at 6:00 p.m.
8. Budget Worksession: Public Works – Tuesday, November 4th at 6:00 p.m.

EXECUTIVE SESSION: For the purpose of discussion pending litigation per RCW 42.30.110(1)(i).

MOTION: Move to adjourn to Executive Session at 6:57 p.m. for approximately ten minutes for the purposes of discussing pending litigation per RCW 42.30.110(1)(i).
Payne / Conan – unanimously approved.

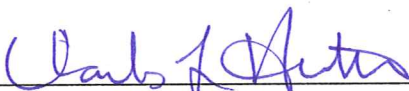
MOTION: Move to return to regular session at 7:13 p.m.
Young / Conan – unanimously approved.

ADJOURN TO WORKSTUDY SESSIONS:

1. Harborview Judson Improvement Project – Eric Schmidt.
2. BB16 Level III Analysis Update – Lochner.

MOTION: Move to adjourn at 7:13 p.m.
Young / Kadzik – unanimously approved.

CD recorder utilized:
Disk #1 Tracks 1- 18



Charles Hunter, Mayor



Molly Towslee, City Clerk